IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE

AMO DEVELOPMENT, LLC, AMO MANUFACTURING USA, LLC and AMO SALES AND SERVICE, INC.,

Plaintiffs,

v.

ALCON VISION, LLC, ALCON LABORATORIES, INC. and ALCON RESEARCH, LLC,

Defendants.

ALCON INC., ALCON RESEARCH, LLC, and ALCON VISION, LLC,

Counterclaim Plaintiffs,

v.

AMO DEVELOPMENT, LLC, AMO MANUFACTURING USA, LLC AMO SALES AND SERVICE, INC., and JOHNSON & JOHNSON SURGICAL VISION, INC.,

Counterclaim Defendants.

C.A. No. 20-842 (CFC) (JLH)

REDATED - PUBLIC VERSION

PLAINTIFFS' RESPONSE TO ALCON'S CONCISE STATEMENT OF FACTS IN SUPPORT OF ALCON'S MOTION FOR SUMMARY JUDGMENT (NO. 2) THAT ONLY AMO DEVELOPMENT, LLC IS ENTITLED TO ACTUAL DAMAGES

Original Filing Date: September 23, 2022 Redacted Filing Date: October 6, 2022

TABLE OF EXHIBITS

Exhibit	Description of Document
2	Schmidt Opening Expert Report
19	March 7, 2022 J&J Corrected Objections and Responses to Alcon's
	Sixth Set of Interrogatories [No. 32]
20	February 22, 2022 Plaintiffs' Response to 5th Set of Interrogatories
	[No. 26]
21	AMO Employment Agreement with Rick Duff
22	AMO Employment offer Letter to Brent Schellhase
23	March 4, 2022 Plaintiffs' 2nd Suppl. Responses to 5th Set of
	Interrogatories [No. 27]
24	Manufacturing, Supply and License Agreement, effective January 1,
	2015
25	Distribution and License Agreement, effective January 1, 2008
26	Amended and Restated Agreement for Sharing Intangible Development
	Costs dated November 8, 2017
27	Transfer and Assignment of Copyright, effective April 2, 2007
28	Certificates of Copyright Registration
29	March 4, 2022 Plaintiffs' 4th Suppl. Responses to Interrogatory No. 11
30	Stamm Opening Expert Report

CONCISE STATEMENT OF FACTS

I. RESPONSE TO ALCON'S CONCISE STATEMENT OF FACTS

1. J&J asserts that "AMO Development owns the Asserted Copyrights (and all rights thereunder, including the right to file suit)." D.I. 141 ¶55; see also id. ¶¶446, 451 ("AMO Development owns the Asserted Copyrights in the iFS® Laser computer programs"); id. ¶457 ("AMO Development owns the Asserted Copyrights in the confidential submissions made to the FDA to seek regulatory approval for the iFS® Laser and IntraLase Fusion Laser"); id. ¶462 ("AMO Development owns the Asserted Copyright in the IntraLase FS Laser operator's manual.");

Response: Undisputed.

2. Abbott Medical Optics, Inc. acquired OptiMedica Corp. in 2013.

A2, OptiMedica Acquisition Press Release.

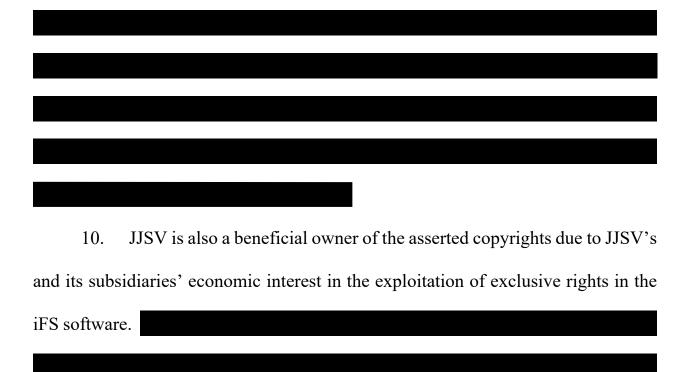
Response: Undisputed.

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3.

	Response: Undisputed.
4.	
	Response: Undisputed.
5.	
	Response: Disputed.

	6.	
		Response: Undisputed.
II.	ADD	ITIONAL MATERIAL FACTS
	7.	AMO Development is a legal owner of the copyrighted works, as
ident	ified in	the September 2, 2020 registrations. Ex. 28 at JJSV_00021188-1223.
	8.	JJSV was likewise a legal owner in certain of the copyrighted works,
by v	irtue o	f work for hire and/or assignment.
	9.	Prior to this litigation, JJSV assigned its legal rights in the asserted
copy	rights to	o AMO Development in a transfer and assignment agreement,



- 11. JJSV and its subsidiaries AMO Manufacturing, AMO Sales and Service, and AMO Ireland share management, sales, and marketing functions. Ex. 19 at 17; Ex. 23 at 4-5.
- 12. As copyright owner, JJSV was and is injured by Alcon's infringement.

 JJSV sells the Catalys laser system, which competes with LenSx. Ex. 19 at 17-19.
- 13. As copyright owner, JJSV was and is also injured due to injuries to its subsidiaries, AMO Manufacturing, AMO Sales and Service, AMO Ireland.

14. AMO Development licensed relevant intellectual property to AMO
Manufacturing, AMO Sales and Service, and AMO Ireland, so they could
manufacture, sell, and service the iFS and Catalys systems.

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September 23, 2022

CERTIFICATION

This brief complies with the type and word limitation in Paragraph 24(c) of

the Scheduling Order (D.I. 61) because it is written in 14-point Times New Roman

font and contains 923 words according to the word count feature of Microsoft Word,

and collectively with the opposition briefing on the summary judgment motion and

other Daubert motions filed herewith, does not exceed the 12,500 word limit set

forth in the Scheduling Order.

/s/ Anthony D. Raucci

Anthony D. Raucci (#5948)

CERTIFICATE OF SERVICE

I hereby certify that on September 23, 2022, I caused the foregoing to be electronically filed with the Clerk of the Court using CM/ECF, which will send notification of such filing to all registered participants.

I further certify that I caused copies of the foregoing document to be served on September 23, 2022, upon the following in the manner indicated:

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